

MAY 16 2006

**FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463**

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

RAD REFERRAL: 05L-48

DATE ACTIVATED: March 14, 2006

STATUTE OF LIMITATIONS: January 31, 2009

SOURCE: INTERNALLY GENERATED

RESPONDENTS: ARPAC and B. Jeffrey Brooks, in his official capacity as treasurer

RELEVANT STATUTE: 2 U.S.C. § 434(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

**I. INTRODUCTION**

The Reports Analysis Division ("RAD") has referred ARPAC, a multicandidate committee, and B. Jeffrey Brooks, in his official capacity as treasurer (the "Committee"), for its failure to file the following disclosure reports for the 2004 election cycle, in violation of 2 U.S.C. § 434(a)(4): 2003 Year-End, 2004 April Quarterly, 2004 July Quarterly, 2004 October Quarterly, 12-Day Pre-General, 30-Day Post-General and 2004 Year-End Reports.<sup>1</sup>

As discussed below, we recommend that the Commission open a MUR and find reason to believe that the Committee, and B. Jeffrey Brooks, in his official capacity as treasurer, violated

25044144561

1 2 U.S.C. § 434(a) by failing to file reports of receipts and disbursements as required by the  
2 Federal Election Campaign Act of 1971, as amended (“the Act”).

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 ARPAC is a multicandidate political committee as defined by 2 U.S.C. § 441a(a)(4), and  
5 has filed disclosure reports with the Federal Election Commission since 1993.<sup>2</sup> The Act requires  
6 that all committees file reports of receipts and disbursements in accordance with the provisions  
7 of the Act. 2 U.S.C. § 434(a). The Committee should have filed Quarterly Reports no later than  
8 fifteen days after the last day of each calendar quarter, except for the quarter ending on December  
9 31 of the calendar year, which should have been filed no later than January 31 of the following  
10 year. 2 U.S.C. § 434(a)(4)(A)(i). The Committee should have also filed a Pre-General Election  
11 Report no later than the twelfth day before any election in which it made a contribution to or an  
12 expenditure on behalf of a candidate in such election (2 U.S.C. § 434(a)(4)(A)(ii)), and a Post-  
13 General Election Report, no later than the thirtieth day after the general election (2 U.S.C.  
14 § 434(a)(4)(A)(iii)).

15 On January 29, 2004, the Committee filed a Miscellaneous Report with the Commission  
16 indicating that the Committee's hard drive had crashed while attempting to file the 2003 Year-  
17 End report. The Committee stated that they hoped to correct this problem and file the Year-End  
18 Report by the January deadline. However, the Committee did not meet this deadline, nor did the  
19 Committee file subsequent Reports for the 2004 election cycle. After the deadline for each of  
20 these reports had passed, RAD sent notices to the Committee that the failure to file could result

---

<sup>2</sup> There is little public information about the Committee. However, a public information search did reveal that the treasurer, B. Jeffrey Brooks, is the “Partner in Charge” of the law firm Adams & Reese, LLP, which is located at 401 9<sup>th</sup> Street Northwest, Washington, DC, the same address the Committee provided to the Commission in its statement of organization. See <http://adamsandree.com/attorneys/search.html> There are no previous enforcement matters regarding the Committee.

2504144552

1 in civil penalties, audits, or legal enforcement. The Committee did not respond to these notices,  
2 and did not further communicate with the Commission, until March 31, 2005, when Committee  
3 representative Read Irvin called the Commission asking when the next report was due to the  
4 Commission. RAD advised Mr. Irvin that while the next report was the 2005 Mid-Year Report  
5 due on July 31, 2005, the Committee had not filed any reports since the 2003 Mid-Year Report,  
6 which was filed July 11, 2003. Ultimately, the Committee filed all of the missing reports from  
7 2003 and 2004 in April of 2005.<sup>3</sup> These reports are listed in the following chart.

8 **REPORT FILED RECEIPTS DISBURSMENTS TOTAL ACTIVITY**

2003 Year-End	April 27, 2005	\$12,500.00	\$15,376.04	\$27,876.04
2004 April Quarterly	April 27, 2005	\$12,500.00	\$ 9,500.00	\$22,000.00
2004 July Quarterly	April 27, 2005	\$36,000.00	\$16,250.00	\$52,250.00
2004 October Quarterly	April 28, 2005	\$17,106.02	\$21,250.00	\$38,356.02
2004 Pre-General <sup>4</sup>	April 28, 2005	No Receipts Reported	\$ 250.00	\$ 250.00
2004 Post-General Report	April 28, 2005	\$ 0.00	\$12,000.00	\$12,000.00
2004 Year-End	April 28, 2005	\$ 0.00	\$ 3,500.00	\$ 3,500.00

9 **Totals \$ 78,106.02 \$ 78,126.04 \$156,232.06**

10 Because the Reports were not filed until 2005, the 2003 Year-End Report and all of the  
11 2004 Reports are considered not filed by the Commission's Regulations. Specifically, the

<sup>3</sup> The Committee filed the 2005 Mid-Year Report, and all subsequent 2005 reports, by the required deadlines.

<sup>4</sup> The Committee was required to submit a Pre-General Election Report because it made a general election contribution or expenditure during the period of October 1, 2003 to October 13, 2004. The report filed on April 28, 2005, disclosed a \$250 disbursement to the principal campaign committee of a candidate for the House of Representatives.

25044144553

1 Committee failed to file two Election Sensitive Reports prior to four days before the general  
2 election: the 2004 October Quarterly Report and the 2004 Pre-General Election Report.<sup>5</sup> The  
3 remaining reports filed by the Committee in April 2005 were not Election Sensitive Reports and  
4 would be considered not filed if they are filed after thirty days of their due dates or not filed at all.  
5 11 C.F.R. § 111.43(e)(1). Here, the Committee failed to file reports that were not election sensitive  
6 within thirty days of their due date.

7 No further investigation is necessary to determine that the Committee and B. Jeffrey  
8 Brooks, in his official capacity as treasurer, failed to report \$156,232.06 in federal activity for the  
9 2004 election cycle, in violation of 2 U.S.C. § 434(a). Accordingly, we recommend that the  
10 Commission find reason to believe that the ARPAC and B. Jeffrey Brooks, in his official  
11 capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to report federal activity.

12 **II. CONCILIATION AND CIVIL PENALTY**

13  
14  
15  
16  
17  
18  
19

---

<sup>5</sup> Election Sensitive Reports are considered to be not filed if they are not filed prior to four (4) days before the general election. 11 C.F.R. § 111.43(e)(2) Election Sensitive Reports means third quarter reports due on October 15<sup>th</sup> before the general election; monthly reports due October 20<sup>th</sup> before the general election; and pre-election reports for primary, general, and special elections. 11 C.F.R. § 111.43(d).

26044144564

1

2

3

4

5

6

7

8

9

2904144565

10

11

**II. RECOMMENDATIONS**

1. Open a MUR.
2. Find reason to believe that ARPAC and B. Jeffrey Brooks, in his official capacity as treasurer, violated 2 U.S.C. § 434(a).
3. Approve the attached Factual and Legal Analysis.
- 4.
5. Approve the appropriate letters.
- 6.

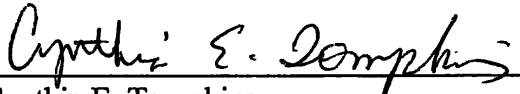
Lawrence H. Norton  
General Counsel

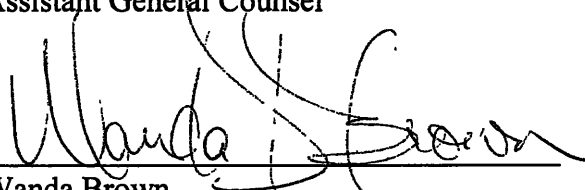
Lawrence L. Calvert Jr.  
Deputy Associate General Counsel  
for Enforcement

5/16/06

Date

BY:

  
Cynthia E. Tompkins  
Assistant General Counsel

  
Wanda Brown  
Law Clerk

**Attachments:**

1. Factual and Legal Analysis
- 2.

2604144558

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40